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January 19, 2012

Hon. Norman A. Mordue, U.S.D.J.  
United States District Court  
Northern District of New York  
James Hanley Federal Building  
P.O. Box 7367  
100 S. Clinton Street  
Syracuse, NY 13261-7367

**Re: *Kristin Orr vs. Allied Interstate, Inc.***  
N.D.N.Y. Case No. 8:11-cv-00973-NAM-RFT

Dear Judge Mordue,

I am counsel for the Plaintiff in the above-referenced action. I am writing this letter in response to Defendant's Motion for Judgment on the Pleadings [Doc. 9] wherein Defendant argues that this action is better-suited to being heard in Bankruptcy Court rather than the District Court.

I would first like to express my sincerest apologies to the Court for Plaintiff's delay in responding to Defendant's Motion. On December 5, 2011, I filed with the Court a stipulation to extend the time to file an opposition to Defendant's motion and, unfortunately, was not aware that on December 9, 2011 in a Text Order, Your Honor denied the stipulation with a right to renew. I am a legally-blind attorney and, apparently, never saw the Court's December 9th text order until Judy from Your Honor's chambers contacted me on January 3, 2012. Since that time I have had to reach out to my client and also to associate a competent bankruptcy attorney to assist me with this case - hence the delay in responding/opposing Defendant's motion.

Based upon conversations with my client and with bankruptcy counsel I believe that it is in the Plaintiff's best interest to maintain this action in Bankruptcy Court as requested by Defendant. To that end, on January 13, 2011, Plaintiff's newly associated bankruptcy counsel filed and served a Motion to Reopen her Bankruptcy for purposes of filing an adversarial proceeding against the Defendant, Allied Interstate, Inc., a copy of which is attached hereto as **Exhibit A**.

In light of the foregoing, Plaintiff respectfully requests that Your Honor not dismiss this action, but instead refer it to the U.S. Bankruptcy Court for the Northern District of New York. This was the approach taken by various court, including this Court, in other similar cases. See e.g., *Diamante v. Solomon & Solomon, P.C.*, Bankr. L. Rep. (CCH) P78, 525 (N.D.N.Y. Sept. 18,

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2001). Once the case has been referred to the Bankruptcy Court, Plaintiff can then bring her additional claims for relief under the Bankruptcy Code including, but not limited to, 11 U.S.C. § 524, which Defendant has argued that Plaintiff pursue. It is my understanding from Defendant's counsel that Defendant does not oppose Plaintiff's request to refer this action to the Bankruptcy Court for further proceedings.

Once again, I apologize to Your Honor for the confusion in filing Plaintiff's opposition to Defendant's pending Motion for Judgment on the Pleadings [Doc. 9], and any inconvenience it may have caused the Court or its staff.

Respectfully submitted,

s/William F. Horn

William F. Horn

*Encl:stated*

cc: All counsel of record *via ECF Filing*

# **EXHIBIT “A”**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK**

**In Re: Kristin Orr,**

**Debtor(s)**

**Address: 393 Salmon River Road  
Plattsburg, NY 12901**

**Case No.: 09-11826  
Chapter 7**

**NOTICE OF DEBTOR(S) MOTION TO  
REOPEN CHAPTER 7 SOLELY FOR  
THE PURPOSE OF FILING  
AN ADVERSARIAL**

Kristin Orr has filed papers with the Court to seek an order pursuant to 11 U.S.C. Section 350 and Federal Rules of Bankruptcy Procedure 5010 and LBR 9013-4(b)(22) to reopen Chapter 7 solely for the purpose of filing an adversarial.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief requested in the motion, or if you want the Court to consider your views on the motion, then on or before February 8, 2012, you or your attorney must:

File with the Court a written response, explaining your position at:

Court Clerk  
U.S. Bankruptcy Court  
James T. Foley U.S. Courthouse  
445 Broadway, Suite 327  
Albany, New York 12207

If you mail your response to the Court for filing, you must mail it early enough so the Court will *receive* it on or before the date stated above.

You must also mail a copy to:

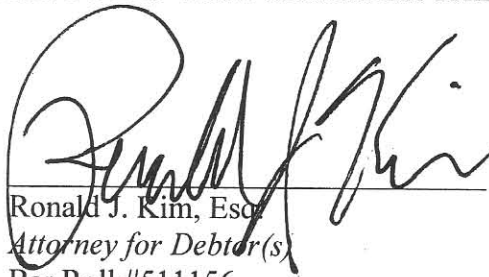
Douglas J. Wolinsky, Esq.  
Chapter 7 Trustee  
Primmer Piper Eggleston & Cramer  
150 South Champlain Street  
PO Box 1489  
Burlington, VT 05401-1489

Ronald J. Kim, Esq.  
Attorney for Debtor(s)  
Law Offices of Ronald J. Kim  
P.O. Box 318  
Saratoga Springs, NY 12866

Attend the hearing scheduled to be held on **February 15, 2012**, at **9:15 a.m.**, in Courtroom 306, United States Bankruptcy Court, James T. Foley U.S. Courthouse, Albany, New York.

PURSUANT TO BANKRUPTCY RULE 9014 AND LOCAL BANKRUPTCY RULE 9013-1, IF YOU INTEND TO OPPOSE THE MOTION, YOU MUST SERVE ON THE MOVANT'S COUNSEL AND FILE WITH THE CLERK OF THE BANKRUPTCY COURT, WRITTEN OPPOSITION TO THE MOTION NOT LATER THAN SEVEN (7) DAYS PRIOR TO THE RETURN DATE OF THIS MOTION. IN THE EVENT NO WRITTEN OPPOSITION IS SERVED AND FILED, NO HEARING ON THE MOTION WILL BE HELD BEFORE THE COURT ON THE RETURN DATE, AND THE COURT WILL CONSIDER THE MOTION AS UNOPPOSED.

Dated: Saratoga Springs  
January 13, 2012



Ronald J. Kim, Esq.  
*Attorney for Debtor(s)*  
Bar Roll #511156  
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Ron@RonaldKimLaw.com E-mail

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK**

*Date: 02/15/2012  
Time: 09:15 a.m.  
Place: Albany, NY*

**In Re: Kristin Orr,**

**Debtor(s)**

**Address: 393 Salmon River Road  
Plattsburg, NY 12901**

**Case No.: 09-11826  
Chapter 7**

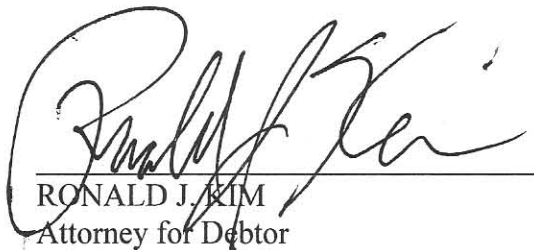
**DEBTOR'S MOTION TO  
REOPEN CHAPTER 7 SOLELY FOR  
THE PURPOSE OF FILING  
AN ADVERSARIAL**

Kristin Orr (Debtor), by her attorney, Ronald J. Kim, Esq., respectfully asserts the following in support of her Motion to Reopen the Chapter 7 solely for the purpose of filing an adversarial:

1. On or about May 21, 2009, the Debtor filed the instant Petition for Chapter 7 Bankruptcy relief.
2. The Chapter 7 Bankruptcy proceeding included a debt to Slm Financial Corp. in the amount of \$6,000.00 ("the debt"), which was scheduled as an unsecured debt.
3. The Chapter 7 case of the Plaintiff was discharged on or about September 28, 2009.
4. On or about May 25, 2011, Slm Financial Corp., had or caused to be served correspondence attempting to collect a debt upon the Debtor from Allied Interstate Inc.
5. To date, Slm Financial Corp. and/or Allied Interstate, Inc., have not refrained from sending correspondence to Debtor which attempts to collect the debt.
6. Accordingly, the Debtor respectfully requests that the Chapter 7 Bankruptcy be reopened solely for the purpose of the Debtor filing an adversarial against Slm Financial Corp. and/or Allied Interstate, Inc., and enforcing the plaintiff's discharge.

WHEREFORE, for all the reasons noted above, the Debtors pray for this court to issue an Order reopening the Chapter 7 Bankruptcy and order such further relief as is deemed just and proper.

Dated: Saratoga Springs, NY  
January 13, 2012

A handwritten signature in black ink, appearing to read 'Ronald J. Kim', is written over a horizontal line.

RONALD J. KIM

Attorney for Debtor

Bar Roll # 511156

Law Offices of Ronald J. Kim

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